

Appl. No. : 09/909,194
Filed : July 19, 2001

REMARKS

The Office Action mailed December 15, 2005 has been reviewed. By way of summary, claims 1-6, 8-13, 15 and 19 are pending in the application, and stand rejected. In the present amendment, Applicant proposed to amend claims 1, 3, 4, 5, 6, 8 and 12. Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the proposed amendments and the following remarks.

Finality of Office Action.

Applicant requests that the Examiner withdraw the finality of the pending Office Action. MPEP 706.087(b) provides that an application may be finally rejected on the first Office Action if the application is a continuing application of an earlier application and all claims of the new application are (1) drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds and art of record in the next office action if they had been entered in the earlier application. The prior amendment and response was presented in response to an action that was already final, and applicant filed an RCE with an amendment to the claims including new limitations. Accordingly, because the prior office action was already a final rejection, and the RCE included an amendment to the claims. Applicants submit that the final rejection was improper and withdrawal is requested.

Rejections under 35 U.S.C. §102 and §103.

The Examiner rejected claims 1-6, 8, 11, 13, 15 and 19 under the 35 U.S.C. §102(b) as being anticipated by Deaton et al. The Examiner contends that Deaton teaches the new limitation to claim 1 presented in the prior amendment. In paragraph 6, the Examiner states that, “the transaction module is configured to select at least one of the plurality of user accounts to use for a commercial transaction (the one account selected by the user)....” The language previously added to claim 1 made clear that the particular selection is made by the transaction module in the claimed invention. The last element of the claim states that the transaction module is “further configured to select at least one of the plurality of user accounts to use for a commercial transaction with the at least one of plurality of merchants wherein the selection is based at least in part on the at least one promotion.” Accordingly, the language added by the previous amendment to claim1 is not disclosed or taught by Deaton et al.

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Indication of Allowable Subject Matter

The Examiner has indicated the possibility of allowable subject matter by insertion of the word "personal computer" in place of "user module." The use of the word "personal computer" would, however, restrict the invention beyond that to which applicant is entitled. For example, on page 14, personal interface is provided to the user by a computer workstation, a local area network of individual computers, an interactive television, an interactive kiosk, a personal digital assistant, an interactive wireless communication device, a kiosk, a handheld computer, a telephone, a cellular phone, a router, a satellite, a smart card, an imbedded computer device or the light which can interact with the communication medium. Accordingly, Applicants describe any personal interface with sufficient breadth that the claim should not be limited to a personal computer. Accordingly, Applicants have accepted the Examiner's concept by reciting a personal interface.

The claims are believed to be in condition for allowance and an early notification is therefore solicited. In addition, the finality of the office action should be withdrawn. Should the Examiner determine that additional issues may be resolved by telephone, the Examiner is cordially invited to contact the undersigned so that such issues may be promptly resolved and case passed to issuance.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,
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Dated: Feb. 15, 2006

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